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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BUDD, MARK OSBORNE

ART UNIT PAPER NUMBER

2834

DATE MAILED: 03/06/2003

#5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034594

Applicant(s)

Oikhavets et al

Examiner

Budd

Group Art Unit

2834

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

3

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1 - 22 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 18 - 22 is/are allowed.
- ☒ Claim(s) 1-6 and 9-17 is/are rejected.
- ☒ Claim(s) 7 and 8 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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Claims 9-12 and 15-17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are vague and indefinite. In claims 9 and 17 there is no cooperation between the laser, photo receiver and the first and/or second resonator. The claims are merely a catalog of unrelated parts as no structural or electrical cooperations are stated. In claims 11 and 12 there is no antecedent basis for "the amplifier". In claim 15, line 3, there is no proper antecedent basis for "the resonator". It is assumed it was meant to be "the first resonator". If the claim is amended to explicitly state "the first resonator" then claims 15-17 would be allowed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 13 and 14 are rejected under 35 U.S.C. 102(a) as being anticipated by Zakaria, Nguyn or Lin.

Each reference teaches multiple electrostatic resonators electrostatically coupled to process various signals. Regarding claims 13 and 14 the output electrodes inherently sense motion of the input fingers via change in capacitance between the comb fingers this is the way the device operates.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zakaria,

Nguyen or Lin.

As noted above, the references each teach electrostatically coupled resonators. They don't teach some of the specific materials or dimensions claimed. However, it has long been held that optimization of a device via selection from among known suitable materials or most efficient dimensions for a specific application are manipulations within the skill expected of the routineer. Therefore, the selection of specific materials and dimensions would have been obvious to one of ordinary skill in the art.

Claims 7 and 8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15-17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 18-22 are allowed.

Further regarding claims 9-12 and 17, the metes and bounds of the claims is so undefined that prior art can not be applied of this time.

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Further cited of interest are Kritz, Murphy, Miller, Khodja, Lee and Dhuler.

Budd/ds

03/04/03


MARK D. BUDD
PRIMARY EXAMINER
ART UNIT 212